

**IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF ARKANSAS  
NORTHERN DIVISION**

**JOHNATHAN YASEVICH, et al., Each  
Individually and on Behalf of All Others Similarly  
Situated**

**PLAINTIFFS**

**CASE NO. 3:20-cv-19-KGB**

**THE HERITAGE COMPANY, INC.,  
and SANDRA FRANECKE**

**DEFENDANTS**

**DEFENDANTS' PRE-TRIAL DISCLOSURES**

COMES NOW Defendants, The Heritage Company, Inc. and Sandra Franecke (collectively "Defendants"), by and through their attorneys, the Davidson Law Firm, and for their Second Supplemented Pre-Trial Disclosures state as follows:

**1. The names, addresses, and telephone numbers of all counsel for the party.**

The Heritage Company, Inc. and Sandra Franecke

Charles Darwin "Skip" Davidson  
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Nickolas W. Dunn  
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724 Garland, Cantrell at State  
Little Rock, AR 72201  
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**2. A brief summary of claims and relief sought.**

Defendant THC claims that based on the de minimus exception it is not liable for payment to Plaintiffs under FLSA and AMWA. Defendant THC claims that based on

exceptions to the WARN Act, that it is not liable for payment to Plaintiffs. Defendant Franecke claims that she was not in charge of the company and therefore not liable to payment to Plaintiffs.

**3. Prospects for settlement.**

The parties have attempted but are unable to reach a settlement to date, discussions are still ongoing. The parties are working on scheduling a settlement conference with a magistrate judge.

**4. The basis for jurisdiction and objections to jurisdiction.**

Defendants agree to jurisdiction

**5. A list of pending motions.**

- 1) Defendants' Motion for Partial Summary Judgment.
- 2) Plaintiffs' Motion to Set Aside Joint Stipulation of Partial Dismissal without Prejudice and Order of Dismissal Relating Thereto.
- 3) Defendants' Motion for Continuance.

**6. A concise summary of the facts.**

Facts are disputed. Plaintiffs were employees of Defendant THC. Defendant THC claims emergency exceptions to the WARN Act and de minimus exceptions to FLSA and AMWA. Defendant Franecke claims that she was not in charge of the day to day operations of the company and therefore is not liable to Plaintiffs.

**7. All proposed stipulations.**

Both parties have agreed to a continuance in this matter and have not discussed any further proposed stipulations at this time.

**8. The issues of fact expected to be contested.**

Issued to be contested is whether Defendant THC was exempt from the WARN Act and whether the Defendants are liable under the FLSA and AMWA.

**9. The issues of law expected to be contested.**

Whether the de minimum exception applies along with the exceptions under the WARN Act.

**10. A list and brief description of exhibits, documents, charts, graphs, models, schematic diagrams, summaries, and similar objects which may be used in opening statement, closing argument, or any other part of the trial, other than solely for impeachment purposes, whether or not they will be offered in evidence. Separately designate those documents and exhibits which the party expects to offer and those which the party may offer.**

**Expect to Offer:**

- a. Employee handbook and receipts of the handbook;
- b. Orientation Training Workbook;
- c. Jennifer Franecke August 25, 2021 Letter Explaining Payroll Process;
- d. Time sheets for Plaintiffs;
- e. Pay stubs for Plaintiffs;
- f. Deposition of Johnathan Yasevich;
- g. Pay Rates of Plaintiffs;

**May offer:**

- h. FMLA logs for Plaintiffs;
- i. Written discovery responses of Plaintiffs;

- j. Incentive Pay Levels for the Company;
- k. All documents produced in discovery by either Party.

**11. The names, addresses and telephone numbers of witnesses for the party. Separately identify witnesses whom the party expects to present and those whom the party may call. Designate witnesses whose testimony is expected to be presented via deposition and, if not taken stenographically, a transcript of the pertinent portion of the deposition testimony.**

**Expect to Call**

- a. Sandra Franecke; 501-835-5000; 2402 Wildwood Ave. #500, Sherwood, AR 72120.
- b. Jennifer Franecke; 501-835-5000; 2402 Wildwood Ave. #500, Sherwood, AR 72120.
- c. John Toney; 501-835-5000; 2402 Wildwood Ave. #500, Sherwood, AR 72120.
- d. Susie Colvin; 501-835-5000; 2402 Wildwood Ave. #500, Sherwood, AR 72120
- e. Derek Tutulo; 870-926-2404; Unknown
- f. Derek Followell; 870-268-8900; Unknown
- g. Jeff Spence; 501-230-5964; Unknown
- h. Anita Hill; 501-765-3312; Unknown
- i. Johnathan Yasevich; Unknown; 2103 Hampton Dr., Jonesboro, Arkansas 72401
- j. Any individuals identified by Plaintiffs.
- k. Any persons necessary to authenticate documents.

**12. The current status of discovery, a precise statement of the remaining discovery and an estimate of the time required to complete discovery.**

The discovery period has closed according to the most recent scheduling order. Defendants state that if a continuance is granted, discovery could continue for a period of time hereafter. If dismissed Plaintiffs are allowed to re-enter this matter, then additional discovery regarding those individuals would be necessary.

**13. An estimate of the length of trial and suggestions for expediting disposition of the action.**

Defendants estimate 1 day for each side is needed to try this matter. Defendants do not have any suggestions for expeditious disposition of the action other than a ruling on the pending motions.

Respectfully submitted,

Charles Darwin “Skip” Davidson; ABN 73026  
Nickolas W. Dunn; ABN 2019115

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**Attorneys for The Heritage Company,  
Inc. and Sandra Franecke**

**CERTIFICATE OF SERVICE**

I, Nickolas W. Dunn, do hereby certify that I have sent via Federal Court ECF System this 17<sup>th</sup> day of July 2023, a true and complete copy of the forgoing to the following individuals:

**Daniel Ford**  
**Josh Sanford**  
Sanford Law Firm  
650 S. Shackleford, Suite 411  
Little Rock, Arkansas 72211

Nickolas W. Dunn